

Appl. No. 10/757,652
Amdt. dated March 1, 2006
Reply to Office action of January 11, 2006

REMARKS

Priority

Applicant maintains the claim of priority to prior Application No. 10/080,829 filed 2/22/02 and as a continuation.

Specification

Applicant has canceled claims 6-9, 16-19 and 30-40 thereby eliminating any objection related to the specification. More particularly, claims directed to new matter have been canceled.

35 U.S.C. §112

Applicant has canceled claims 6-9, 16 and 30-40 thereby eliminating any objection related to the specification. More particularly, claims directed to new matter have been canceled.

35 U.S.C. §102 (Matchett et al)

Claims 1-2, 4-8, 10-11, 13, 15-18, 20-21, 23, 26-27 and 30-33 stand rejected as anticipated by Matchett. Applicant has amended independent claims 1, 10 and 20 and disputes the rejection. Accordingly, as set forth in greater detail below, the section 102 rejection is overcome.

To anticipate a claim, a single reference must disclose or suggest each and every element of claim. As set forth below, Matchett fails to disclose at least one element of the rejected claims.

Matchett is a passive system designed to initially identify and verify the user of a system, including a computer-based gaming system. By storing biometric data and comparing it to captured biometric data, the Matchett system either accepts or rejects access to the system by the potential user. If the user is rejected he or she is not given access to the system. The novelty of Matchett is the continuous biometric verification and identification of the user after the user has been provided access. (see, columns 4-5, lines 55-68; 1-6).

Claims 1, 10 and 20 have been amended to recite "wherein said biometric identification means communicates with a database to compare captured biometric data with stored biometric data verifying the identity of the player or creating a new biometric data file when captured biometric data does not match any stored biometric data." That is, the present

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system is not only intended to allow or deny access to a gaming system. One primary application of the present system is to locate and identify new players for a particular casino's player's or slot club. Therefore, rather than denying access to gaming machines based on a non-match, the present system may create a new data file based on the new unmatched biometric data associated with the subject player while allowing the unmatched player access. Therefore, claims 1, 10 and 20 each recite "creating a new biometric data file when captured biometric data does not match any stored biometric data." Matchett fails to disclose or suggest the creation of a new data file based on a non-match. Indeed, Matchett states "If the user has no reference data on file, the system 200 according to the present invention will not allow access to the protected system or device." (see, column 6, lines 55-58). The claims of Matchett are further limited to enabling or disabling access to the subject system. (see, claims 1, 6, 11, 15 and 24).

Since Matchett fails to disclose creating a new biometric data file when captured biometric data does not match any stored biometric data, it cannot anticipate the present claims as amended.

35 U.S.C. §102 (Benoy)

Claims 35-39 stand rejected as anticipated by Benoy. Claims 35-39 have been canceled thereby rendering this rejection moot.

35 U.S.C. §103 (Matchett and Daugman)

Claims 3, 14 and 22 stand rejected as obvious over Matchett in light of Daugman. Applicant disputes the rejection.

Applicant's arguments with respect to the anticipation rejection are incorporated herein in their entirety. As independent claims 1, 10 and 20 have been amended to recite "opening a new biometric data file when captured biometric data does not match any stored biometric data." Nothing in Daugman discloses, teaches or suggests opening a new biometric data file in response to a biometric non-match. Like Matchett, Daugman either identifies or rejects a subject without more. (see, Fig. 1, block 28). Therefore, the combination of Matchett and Daugman fails to render the present claims as amended obvious.

Claims 6-9, 16-19 and 30-40 stand rejected as obvious over Matchett in light of Daugman. Claims 6-9, 16-19 and 30-40 have been canceled thereby rendering the rejection

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moot.

35 U.S.C. §103 (Matchett and Franchi or Slater)

Claims 12, 24-25 and 28-29 stand rejected as obvious over Matchett in light of Franchi or Slater. Applicant disputes the rejection.

Applicant's arguments with respect to the anticipation rejection are incorporated herein in their entirety. As independent claims 10 and 20 have been amended to recite "opening a new biometric data file when captured biometric data does not match any stored biometric data." Nothing in Franchi or Slater discloses, teaches or suggests opening a new biometric data file in response to a biometric non-match. Therefore, the combination of Matchett and Franchi or Slater fails to render the present claims as amended obvious.

35 U.S.C §102 (Benoy)

Claim 40 stands rejected as anticipated by Benoy. Claim 40 has been canceled thereby rendering this rejection moot.

It is respectfully submitted that the application is now in condition for allowance and, accordingly, reconsideration and allowance are respectfully requested. Should any questions remain regarding the allowability of the application, the Examiner is invited to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

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Date: March 1, 2006

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment of fees which may be required by this paper to Deposit Account No. 502466 including any fee for extension of time, or the fee for additional claims which may be required. Please show our docket number with any Deposit Account transaction. A copy of this letter is enclosed.

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